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SUBJECT: NICARAGUA -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. STATE 59732
[1](#)B. STATE 005577

[1](#)1. This is an action cable; see paras 5 through 7 and 10.

[1](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[1](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Nicaragua of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Nicaragua and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

[1](#)4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

[1](#)5. Action Request: No earlier than OOB local time Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Nicaragua of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[1](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing

the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Nicaragua,s country narrative in the 2009 TIP Report:

NICARAGUA (TIER 2 WATCH LIST)

Nicaragua is principally a source and transit country for women and children trafficked for the purposes of commercial sexual exploitation and forced labor. Women and children are trafficked within the country and to neighboring countries, most often to El Salvador, Costa Rica, Guatemala, Honduras, Mexico, and the United States, for commercial sexual exploitation. The most prevalent form of internal trafficking is the exploitation of children, both boys and girls, in prostitution. NGOs identify Managua, Granada, Esteli, and San Juan del Sur as destinations for foreign child sex tourists. NGOs report instances of forced child marriages between young girls and older foreign men, particularly in San Juan del Sur. Children are trafficked within the country for forced labor in construction, agriculture, the fishing industry, and for domestic servitude. Young Nicaraguan men and boys are trafficked from southern border areas to Costa Rica for forced labor in agriculture and construction. To a lesser extent, Nicaragua is a destination country for women and children trafficked from Colombia, Guatemala, and Honduras, for the purpose of commercial sexual exploitation. All forms of human trafficking appear to be growing in Nicaragua, which NGOs indicate is underreported to authorities.

The Government of Nicaragua does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite such efforts, the government did not show evidence of progress in combating human trafficking, particularly in terms of providing adequate assistance to victims and confronting trafficking-related complicity; therefore, Nicaragua is placed on Tier 2 Watch List.

Recommendations for Nicaragua: Increase efforts to investigate and prosecute trafficking offenses, and convict and punish trafficking offenders, including government officials who may be suspected of complicity with trafficking activity; increase law enforcement efforts against forced labor; dedicate additional resources for victim assistance; provide adequate care for adult trafficking victims; and raise public awareness about human trafficking, particularly among young Nicaraguans seeking gainful employment.

Prosecution

The Government of Nicaragua demonstrated inadequate efforts to combat human trafficking through law enforcement during the reporting period. Nicaragua criminalizes all forms of human trafficking. A penal code reform law, which was passed by the Nicaraguan National Assembly in November 2007, came into force in July 2008. Article 182 of the new code prohibits trafficking in persons for the purposes of slavery, sexual exploitation, and adoption, prescribing penalties of from seven to 10 years, imprisonment. A separate statute, Article 315, prohibits the submission, maintenance, or forced recruitment of another person into slavery, forced labor, servitude, or participation in an armed conflict; this

offense carries penalties of from five to eight years, imprisonment. These prescribed punishments are sufficiently stringent and commensurate with penalties prescribed for other serious crimes such as rape. During the reporting period, the government investigated 13 trafficking cases, filed 10 prosecutions, but achieved no convictions. Such results represent diminished efforts compared to the previous year, when the government investigated 17 cases, filed two prosecutions, and achieved two convictions, securing sentences of more than four years, imprisonment for each trafficking offender. The government opened no investigations of suspected official complicity with human trafficking, despite credible reports of trafficking-related corruption in the judiciary, in addition to police and immigration officials accepting bribes, sexually exploiting victims, or turning a blind eye to such activity, particularly at the nation's borders.

Protection -----

The Nicaraguan government made inadequate efforts to protect trafficking victims during the last year, and NGOs and international organizations continued to provide the bulk of assistance to victims. The government provided basic shelter and services to child trafficking victims, but such assistance was not readily accessible in all parts of the country, nor was it generally available for adult trafficking victims. Last year the government's donor-funded anti-trafficking telephone hotline was reported as not working regularly. With assistance from IOM and OAS, the government trained diplomatic and consular personnel in identifying trafficking victims abroad. Consular officials assisted six Nicaraguan trafficking victims last year, aiding repatriation efforts from El Salvador, Costa Rica, Panama, Mexico, Guatemala, and France. The government encouraged victims to participate in trafficking investigations and prosecutions, though many were reluctant to do so due to social stigma, fear of retribution from traffickers, and long court delays. The government provided a temporary legal alternative to the removal of foreign victims to countries where they may face hardship or retribution.

Prevention -----

The Nicaraguan government made inadequate efforts to prevent trafficking, such as through awareness-raising campaigns, during the last year. The government conducted no anti-trafficking outreach or education campaigns in 2008, relying on NGOs and international organizations to sponsor such activities. The government maintained an interagency anti-trafficking committee to direct anti-trafficking efforts, but it conducted few activities during the reporting period. Government collaboration with NGOs on anti-trafficking activities is reported to be better on the local level. The government reported no efforts to reduce demand for commercial sexual acts, such as enforcement of Article 177) its penal code provision against child sex tourism -- or awareness-raising campaigns on child prostitution; nor did it undertake efforts to reduce demand for forced labor.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in

Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of

trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

11. The following is press guidance provided for Post to use with local media.

Q1: Why was Nicaragua downgraded to Tier 2 Watch List on this year's Report?

A: The Government of Nicaragua does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite such efforts, the government did not show evidence of progress in combating human trafficking, particularly in terms of providing adequate assistance to victims and confronting trafficking-related complicity; therefore, Nicaragua is placed on Tier 2 Watch List.

Q2: What is the nature of Nicaragua's trafficking problem?

A: Nicaragua is principally a source and transit country for women and children trafficked for the purposes of commercial sexual exploitation and forced labor. Women and children are trafficked within the country and to neighboring countries, most often to El Salvador, Costa Rica, Guatemala, Honduras, Mexico, and the United States, for commercial sexual exploitation. The most prevalent form of internal trafficking is the exploitation of children, both boys and girls, in prostitution. NGOs identify Managua, Granada, Esteli, and San Juan del Sur as destinations for foreign child sex tourists. NGOs report instances of forced child marriages between young girls and older foreign men, particularly in San Juan del Sur. Children are trafficked within the country for forced labor in construction, agriculture, the fishing industry, and for domestic servitude. Young Nicaraguan men and boys are trafficked from southern border areas to Costa Rica for forced labor in agriculture and construction. To a lesser extent, Nicaragua is a destination country for women and children trafficked from Colombia, Guatemala, and Honduras, for the purpose of commercial sexual exploitation. All forms of human trafficking appear to be growing in Nicaragua, which NGOs indicate is underreported to authorities.

Q3: How can Nicaragua improve its anti-trafficking efforts?

A: To advance its efforts to combat human trafficking, the Government of Nicaragua could: increase efforts to investigate and prosecute trafficking offenses, and convict and punish trafficking offenders, including government officials who may be suspected of complicity with trafficking activity; increase law enforcement efforts against forced labor; dedicate additional resources for victim assistance; provide adequate care for adult trafficking victims; and raise public awareness about human trafficking, particularly among young Nicaraguans seeking gainful employment.

¶12. The Department appreciates posts, assistance with the preceding action requests.
CLINTON